

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)	
)	Case No. 1:09-cr-61
v.)	Collier/Lee
)	
ELGIN RASHAD EVANS)	
)	

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court:

(1) grant Defendant's motion to withdraw his not guilty plea to Count One of the one-count Indictment (2) accept Defendant's plea of guilty to Count One, that is of possession with intent to distribute an unspecified amount of a mixture and substance containing a detectable amount of cocaine base ("crack") in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C); (3) adjudicate Defendant guilty of the charge in Count One, that is of possession with intent to distribute an unspecified amount of a mixture and substance containing a detectable amount of cocaine base ("crack") in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter [Doc. 14]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 14] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

(1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment

is **GRANTED**;

- (2) Defendant's plea of guilty to Count One, that is of possession with intent to distribute an unspecified amount of a mixture and substance containing a detectable amount of cocaine base ("crack") in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the charge in Count One, that is of possession with intent to distribute an unspecified amount of a mixture and substance containing a detectable amount of cocaine base ("crack") in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing;
and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **November 19, 2009 at 9:00 a.m.** before the Honorable Curtis L. Collier.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE